

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:09-CV-264**

JEFFREY T. LEARDINI,

Plaintiff,

vs.

**CHARLOTTE-MECKLENBURG
BOARD OF EDUCATION and
KAY CUNNINGHAM, in her individual
and official capacities,**

Defendants.

ORDER

THIS MATTER is before the Court on Plaintiff's Motion for an Award of Attorneys' Fees and Costs pursuant to 42 U.S.C. §§ 1983 and 1988 [D.I. 76]. For the reasons set forth below, decision on Plaintiff's Motion for fees and costs is postponed until after the appeal of the following Orders: (1) the Order denying summary judgment based on the statute of limitations; and (2) the Order denying the requests for judgment as a matter of law pursuant to Fed. R. Civ. P. 50 and a new trial pursuant to Fed. R. Civ. P. 59.

Defendants filed a Notice of Appeal regarding the aforementioned Orders. Defendants urge this Court not to decide Plaintiff's Motion for Attorneys' Fees and Costs until after the appeal, arguing that the Fourth Circuit may adjudicate the claims differently and such decision may change the analysis on attorneys' fees. While that may be true, it is also true that if the Fourth Circuit affirms this Court's decisions, then Plaintiff will presumably be entitled to additional attorneys' fees after handing the appeal. Because the matter of attorneys' fees will

likely need to be revisited in either scenario, in the interest of judicial economy, adjudication on the issue is postponed pending decision on the appeal.

IT IS SO ORDERED.

Signed: July 11, 2012

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

